United Nations S/2005/789

Security Council

Distr.: General
16 December 2005

Original: English

Note by the President of the Security Council

I have the honour to transmit a letter dated 14 December 2005 from the Chairman of the working group established pursuant to resolution 1566 (2004) addressed to the President of the Security Council (see annex), transmitting a report of the working group established pursuant to resolution 1566 (2004).

05-64018 (E) 201205

Annex

Letter dated 14 December 2005 from the Chairman of the working group established pursuant to resolution 1566 (2004) addressed to the President of the Security Council

I have the honour to forward the report of the working group established pursuant to resolution 1566 (2004) (see enclosure). It would be highly appreciated if the present letter and its enclosure could be circulated as a document of the Council.

(*Signed*) Lauro L. **Baja**, Jr.
Chairman
Working group established
pursuant to resolution 1566 (2004)

Enclosure

Report

Security Council working group established pursuant to resolution 1566 (2004)

I. Background

1. The Security Council adopted resolution 1566 (2004) on 8 October 2004. Under paragraph 9 of the resolution, the Council established a working group consisting of all members of the Security Council to consider and submit recommendations to the Council on practical measures to be imposed upon individuals, groups or entities involved in or associated with terrorist activities, other than those designated by the Al-Qaida/Taliban Sanctions Committee, including more effective procedures considered to be appropriate for bringing them to justice through prosecution or extradition, freezing of their financial assets, preventing their movement through the territories of Member States, preventing supply to them of all types of arms and related material, and on the procedures for implementing these measures.

2. In paragraph 10 of the resolution, the Security Council further requested the working group to consider the possibility of establishing an international fund to compensate victims of terrorist acts and their families, which might be financed through voluntary contributions, which could consist in part of assets seized from terrorist organizations, their members and sponsors, and submit its recommendations to the Council.

3. Upon agreement of the Security Council (see S/2005/4) Lauro L. Baja, Jr., Permanent Representative of the Philippines to the United Nations, was appointed Chairman of the working group.

4. The working group held its first meeting on 27 January 2005. At that meeting, members agreed to conduct the activities of the working group in two phases. The initial phase would involve gathering information, views and perspectives from sources inside and outside the United Nations to assist the working group in accomplishing its mandate. The second phase would be devoted to discussion and consideration of the recommendations submitted by the working group to the Security Council, as mandated under resolution 1566 (2004).

5. The working group agreed that dialogue between it and the wider membership of the United Nations would be advantageous. A key strategy for the working group would be to maintain transparency and openness in its work. Contributions from non-members of the Security Council would be welcomed and encouraged. The working group held an informal meeting on 27 April 2005 with interested Member States to listen to their views on the issues it faced in relation to its mandate under resolution 1566 (2004). More than 50 Member States participated in the meeting.

6. The working group emphasized the importance of maintaining flexibility in its working methods. In particular, no rigid approaches would be imposed on the time frame of its work.

7. The working group agreed that members and non-members could submit written proposals and ideas on how to achieve its mandate. Several delegations have done so. Members emphasized the need to have close contact and interaction with other subsidiary bodies of the Security Council dealing with counter-terrorism.

8. The working group noted that paragraphs 9 and 10 of resolution 1566 (2004) would be indicative of the themes that its efforts should focus on. These would include the practical measures that could be pursued against individuals, groups or entities involved in or associated with terrorist activities, other than those designated by the Al-Qaida/Taliban Sanctions Committee; the question of the victims and the possible establishment of a compensation fund for them; and the scope of application of the measures recommended by the working group.

9. As part of its information gathering phase, the working group invited resource speakers to discuss relevant topics. The speakers invited were Richard Barrett, Coordinator of the Monitoring Team of the Al-Qaida/Taliban Sanctions Committee; Javier Ruperez, Executive Director of the Security Council Counter-Terrorism Committee Executive Directorate; Jean-Paul Laborde, Chief of the Terrorism Prevention Branch of United Nations Office on Drugs and Crime; and Edward Luck of the School of International and Public Affairs of Columbia University. The working group also held a joint meeting with the Counter-Terrorism Committee to hear a briefing by Guy de Vel, Director-General of the Council of Europe, and Rafael A. Benitez, head of the Counter-Terrorism Task Force of the Council of Europe, on the latest activities of the Council of Europe on counter-terrorism. The working group benefited from the experience and expertise of the resource speakers covering practical and theoretical, legal and political aspects of the work of the Security Council and other international and regional bodies in counter-terrorism.

II. Agenda

10. In the light of its mandate under paragraphs 9 and 10 of resolution 1566 (2004), the working group agreed to explore possible recommendations for submission to the Security Council under three broad headings: (1) practical measures to be imposed against individuals, groups or entities involved in or associated with terrorist activities other than those designated by the Al-Qaida/Taliban Sanctions Committee; (2) victims of terrorist acts; and (3) the scope of application of the measures that could be adopted under resolution 1566 (2004).

11. Under the rubric of "practical measures", members agreed to focus their discussions on the following issues: freezing of financial assets; preventing movement; preventing the supply of arms; strengthening prosecution and extradition; curtailing recruitment and training; preventing public provocation; and use of the Internet. On the issue of victims, members agreed to discuss the support for victims and the possible establishment of a compensation fund for them. In the area of the scope of the application of the measures against terrorist individuals, groups and entities other than those designated by the Al-Qaida/Taliban Sanctions Committee, members agreed to discuss the question of establishing effective means to identify those individuals, groups and entities, including the possibility of establishing a new Security Council list that would identify such individuals, groups and entities.

III. Discussion

12. The outcome of the discussion of the working group is set out below.

13. The working group stressed that terrorism in all its forms and manifestations constitutes one of the most serious threats to international peace and security and that any acts of terrorism are criminal and unjustifiable, regardless of their motivation, wherever, whenever and by whomsoever committed;

14. The working group recalled that States must ensure that any measures they take to combat terrorism should comply with all their obligations under international law and that they should adopt such measures in accordance with international law, in particular international human rights, refugee, and humanitarian law;

15. The working group agreed that the Security Council consider the different capacities of States to implement counter-terrorism measures. While some States are in an advanced stage with regard to the legal framework, technology and mechanism of combating terrorism, other States, in particular many developing countries, lack the essential capacity to establish a system to effectively implement counter-terrorism measures. The working group considered it critical that technical assistance be extended to such States. The working group recommended that the Council establish stronger cooperation with international, regional, and subregional organizations that can assist the capacity of States in this area.

A. Practical measures

Freezing of financial assets

16. The working group agreed that freezing of financial assets is an indispensable tool in curtailing terrorism. The working group recommended that the Security Council continue its efforts to stop financial support for terrorism, based on existing multilateral instruments, international agreements, standards and best practices.

17. In its resolution 1617 (2005), the Security Council strongly urged all Member States to implement the comprehensive international standards embodied in the Financial Action Task Force's (FATF) Forty Recommendations on Money Laundering and the FATF Nine Special Recommendations on Terrorist Financing. The facility extended by various international bodies, such as the International Monetary Fund and the World Bank, to provide technical assistance to countries that lack capacity must be fully utilized.

18. The working group agreed that international, regional, and subregional organizations provide an excellent source of best practices on the freezing of financial assets. It was aware that existing subsidiary bodies of the Security Council, such as the Counter-Terrorism Committee and the Al-Qaida/Taliban Sanctions Committee, use these practical standards and practices when evaluating implementation by States of asset freeze measures. The working group recommended that the Council build on those resources to strengthen the effectiveness of freezing and curtailing the flow of financial assets that may be used for terrorism.

19. The working group recommended that the Security Council continue to seek stronger engagement and cooperation with international, regional, and subregional

organizations in the fight against international terrorism. Many terrorist groups are localized to specific regions and do not have any global reach or operations.

20. The working group expressed concern about cases of abuse by charitable organizations and institutions in funnelling financial support for terrorism. It recommended that the Council continue to pay close attention to the issue.

Preventing movement

21. The working group agreed that preventing the movement of terrorists is an essential measure in the fight against terrorism. Noting the experience of other subsidiary bodies of the Security Council, the working group agreed that preventing the movement of terrorists requires careful implementation, through the use of complete and accurate identifiers of individuals who may be subjected to this measure.

22. The working group noted that effective implementation of this measure also relies on close bilateral cooperation between States sharing common borders. The working group recommended that the Council continue to encourage bilateral arrangements for stronger border controls to prevent the movement of terrorists.

Preventing the supply of arms

23. The working group agreed that prevention of the supply of arms to individuals, groups or entities involved in or associated with terrorist activities is an essential measure in the fight against terrorism. While current efforts of the international community regarding small arms provide the strategic and long-term framework to make this measure effective, the working group recommended that the Security Council work to enhance the prevention of the supply of all types of arms and related materials to terrorists.

24. The working group stressed that the effectiveness of this measure requires a regional focus on where the flow of arms is normally concentrated. Existing international instruments and initiatives, such as on marking and tracing, could provide a useful framework in the implementation of this measure.

Strengthening prosecution and extradition

25. The working group stressed that bringing terrorists to justice is a principal obligation of all States as set out in Security Council resolution 1373 (2001). The working group recommended that the Council urge States to fully implement the principle of extradite or prosecute, as stated in the relevant resolutions of the Council. The working group recommended furthermore to the Council to continue to urge States to become parties to relevant international conventions and protocols relating to terrorism, whether or not they are a party to regional conventions.

26. The working group recommended that the Security Council encourage States to boost their efforts to bring terrorists to justice by entering into agreements for mutual legal assistance with other States. These efforts would lead to the strengthening of the rule of law, as well as the protection of the rights of the accused.

Curtailing recruitment and training

27. The working group agreed that the fight against terrorism requires necessary attention to the suppression of the recruitment of would-be terrorists and their training. Individuals, groups or entities involved in or associated with terrorist activities must not have unfettered resort to recruitment and training of individuals for their nefarious activity.

28. The working group reiterated that the Security Council had decided that States should deny safe haven for terrorists. The working group recommended that the Council consider inviting States to put in place preventive measures, in particular but not exclusively the criminalization of the recruitment and training of terrorists.

Preventing public provocation

29. The working group agreed that public provocation to commit acts of terrorism is an insidious activity contributing to the spread of the scourge of terrorism. The adoption by the Security Council of resolution 1624 (2005), which includes a call to States to take such measures as may be necessary and appropriate to prohibit by law incitement to commit a terrorist act or acts, on the occasion of the Council's meeting at the level of Heads of State and Government, is a milestone.

Use of the Internet

30. The working group agreed that the use of the Internet by individuals, groups and entities involved in or associated with terrorist activities to spread hate and to incite to violence poses a grave danger to peace and security. The working group welcomed efforts and initiatives to curb cybercrime in other international, regional, and subregional bodies.

B. Victims of terrorist acts

Support and compensation fund

31. The working group noted that the number of victims of terrorism, especially among civilians of diverse nationalities and beliefs, has been increasing in various regions of the world. Solidarity with victims and their families can include assistance and provision of support to cope with their loss and grief.

32. The working group noted that, owing to various reasons the resolution of questions about the establishment of a compensation fund for victims of terrorist acts at the international level was premature. While recognizing the importance of helping victims of terrorist acts, the working group recommended that the best approach for the time being was to encourage individual States to determine ways and means to extend assistance to victims of terrorist acts.

C. Scope of the application of the practical measures

Establishing effective means to identify individuals and groups associated with terrorist activities

33. The working group stressed the imperative to combat terrorism in all its forms and manifestations by all means, in accordance with the Charter of the United Nations and international law.

34. Owing to various reasons including the lack of consensus, agreement was not reached on the expansion of the list of individuals, groups and entities involved in or associated with terrorist activities beyond the one already established under the Al-Qaida/Taliban Sanctions Committee.